



## Korea, Republic of

### Country Reports on Human Rights Practices - [2002](#)

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The Republic of Korea (Korea) is governed by a directly elected president and a unicameral legislature. On December 19, Roh Moo-hyun was elected to the Presidency for a single 5-year term of office in a free and fair election. A free and fair National Assembly election was held in April 2000. The Constitution provides for an independent judiciary, and in recent years, the judiciary has shown increasing independence.

Responsibility for maintaining internal security lies with the National Intelligence Service (NIS), the National Police Administration (NPA), and the Defense Security Command (DSC). Legislation passed in 1993 bars the NIS and the DSC from involvement in domestic politics and grants the NIS investigative authority only in cases involving terrorism, espionage, and international crime organizations. The Government revised this law in 1996 to allow the NIS to investigate members of domestic organizations that are viewed as supporting the government of the Democratic People's Republic of Korea (North Korea). Some members of the police were responsible for occasional human rights abuses.

During the year, the country's economy grew by 6 percent. Unemployment remained under 4 percent. However, the country's economic growth was dependent on key export products, and weakness in the financial system left the economy susceptible to unpredictable external conditions. The country's population was 47,600,000.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. The police at times physically and verbally abused detainees, although human rights groups reported that the number of such cases continued to decline. Under the Social Surveillance Law, some released prisoners were required to report to the police when moving or traveling. The use of the National Security Law (NSL) continued to infringe upon citizens' civil liberties, including the right to free expression. In 2001 a foreign citizen was convicted under the NSL for the first time. Domestic violence, rape, and child abuse remained serious problems. Women continued to face legal and societal discrimination. Ethnic minorities, very small in number, faced legal and societal discrimination. Many public sector employees did not enjoy the right of association. Trafficking in persons was a problem; the country was considered a major transit point for alien smugglers, including traffickers of primarily Asian women and children for the sex trade and domestic servitude. The Ministry of Gender Equality was established in January 2001 to deal with issues including women's rights, violence against women, and discrimination against women. In April 2001 the Government created a National Human Rights Commission to investigate allegations of rights violations. A separate commission, the Presidential Truth Commission on Suspicious Deaths, established to investigate suspicious deaths under previous military-backed governments, has investigated a total of 83 cases, 68 during the year. The Republic of Korea hosted the second Ministerial Meeting of the Community of Democracies in Seoul, Republic of Korea, in November.

#### RESPECT FOR HUMAN RIGHTS

##### Section 1 Respect for the Integrity of the Person, Including Freedom From:

###### a. Arbitrary or Unlawful Deprivation of Life

During the year, there was one report of arbitrary or unlawful deprivation of life committed by the Government or its agents. On October 26, murder suspect Cho Cheun-hun collapsed at the Seoul District Public Prosecutor's Office; he died 8 hours later after being taken to a hospital. An autopsy concluded that he died from either shock or a cerebral hemorrhage. President Kim Dae-jung issued an apology for the death, and Justice Minister Kim Jung-kil, as well as Chief Prosecutor Lee Myung-jae, resigned. In November the prosecutor in charge of questioning Cho, Hong Kyeong-ryong, as well as two investigators and one policeman, were indicted on charges of violating the Additional Punishment Law on Specific Crimes, misconduct in office, and brutality. They were tried and convicted, the sentence was upheld on appeal, and they were awaiting the outcome of their second appeal at year's end.

In 2000 the Government enacted the Special Act on the Investigation of Suspicious Deaths to investigate and redress complaints that officials of past military governments had tortured and killed prodemocracy activists. As a result of this

legislation, in August 2000 a nine-person panel was commissioned as the Presidential Truth Commission on Suspicious Deaths to review cases such as the 1960 student uprising and the 1980 Kwangju civil uprising and to shed light on the circumstances surrounding the arrests and deaths of prodemocracy activists. During the year, the Commission reviewed 68 cases. It concluded that the deaths of ex-professor Choi Jong-kil, Kwangju University student activist Kim Joon-bae, and army private Huh Won-keun were all caused by beating. In September it revealed that evidence in the cases of eight student activists and dissidents executed in 1974 was falsified and that confessions were extracted under torture. The eight allegedly belonged to the "People's Revolutionary Party." In June 2001, the Commission determined that the 1984 death of Park Young-doo in Chungsong Prison was an extrajudicial killing.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Penal Code prohibits the mistreatment of suspects. The Government has ordered investigating authorities to protect the human rights of suspects, and allegations of abuse by authorities of those in custody continued to decline. Nonetheless police sometimes abused persons in custody. Prosecutors continued to place emphasis on securing convictions through confessions, a focus driven by cultural factors, with confession viewed as a necessary basis for the reform and rehabilitation of convicted defendants. The Supreme Court has ruled that confessions obtained after suspects have been deprived of sleep during an interrogation cannot be used in court, but police sometimes questioned suspects throughout the night. Credible sources also reported that in some cases police verbally or physically abused suspects, dispensing beatings, threats, and sexual intimidation in the course of arrest and police interrogation. However, human rights groups reported that the number of such cases continued to decline. Criminal suspects, who previously had been required to wear prison garb in court, were allowed to wear street clothes until proven guilty.

On October 26, murder suspect Cho Cheun-hun was beaten to death in custody (see Section 1.a.).

In 2001 police forcibly broke up three demonstrations, which had turned somewhat violent. In April 2001, 40 demonstrators and 55 police officers were injured at a demonstration near a Daewoo automobile factory. President Kim later expressed deep regret for the police's excessive use of force. Numerous Daewoo workers and police were also injured at the same location in February 2001, when police intervened at the request of Daewoo management because of alleged vandalism and destruction of company property.

In the past, police and security officials who abused or harassed suspects rarely were punished. However, in recent years, under the National Public Service Law and criminal law, a number of police and security officials accused of abuse or harassment have been punished or disciplined through demotion, pay cuts, and dismissal. In addition, 10 police officials were charged under criminal law during the year for abuses committed while on duty.

To investigate and redress the complaints of former detainees who claimed that officials of past military-backed governments tortured them or inflicted excessive punishments, in May 2000 the Government enacted the Special Act on the Investigation of Suspicious Deaths (see Section 1.a.) and the Act on the Restoration of the Honor of and Compensation for Persons Engaged in the Democratic Movement. In 2000 the Commission for the Restoration of Honor and Compensation to Activists of the Democratization Movement was established to review cases. As of September, this Commission had determined that, in the over 1,835 cases reviewed to date, compensation was due in 33 cases, the names of 1,600 activists should be cleared, and students Park Ching-chul and Lee Han-yeul should be recognized posthumously as democracy activists.

Prison conditions were Spartan but generally met international standards. Prison diets were adequate, but the facilities offered little protection against cold in the winter and heat in the summer. Some prisoners claimed that these conditions damaged their health and that medical care was inadequate. By year's end, the Government had installed floor heating and cooling systems in 21 of 44 prisons nationwide as part of a multi-year plan to upgrade the entire prison system. Traveling clinic teams visited prisons, and prison clinics were equipped with x-ray machines.

Inmates occasionally criticized guards for using excessive force or needlessly putting prisoners in manacles. Inmates had access to reading materials, telephones, and television broadcasts. Education in computers and foreign languages, occupational training programs, and an inmate employment center helped inmates prepare to resume normal lives. Most prisoners were allowed to receive up to five visitors four to six times per month. Some prisoners were allowed unlimited visits. Model prisoners who had served more than one-third of their sentences were allowed unsupervised meetings with visitors and were exempt from mail censorship. Some were eligible for overnight leave. Pregnant inmates received special treatment, including supplementary food, for the full term of their pregnancies and for an additional 6 months after giving birth. Pregnant inmates also received prenatal care for the full term of their pregnancies. Female inmates were not searched by male prison guards without the prior consent of a prison warden, and a female guard was present during such searches.

Among the mandates of the newly established National Human Rights Commission were the inspection of prisons and the compiling of recommendations for improvement of prison conditions. During the year, the Commission began to monitor prison conditions through a prisoner petition system. Petitions were submitted via a petition box

placed in each prison in April. The Commission also conducted investigations and studies on medical equipment and facilities in prisons, provision of medical services, and conditions in military prisons. According to the Ministry of Justice, human rights nongovernmental organizations (NGOs) were allowed to visit prisons by appointment and to submit recommendations to prison authorities.

#### d. Arbitrary Arrest, Detention, or Exile

Laws regarding arrest and detention often are vague, and prosecutors have wide latitude to interpret them. For example, the National Security Law (NSL) defines espionage in broad terms and permits the authorities to detain and arrest persons who commit acts viewed as supporting North Korea, which are therefore deemed dangerous to the country. The NSL permits imprisonment for up to 7 years of anyone who "with the knowledge that he might endanger the existence or security of the State or the basic order of free democracy, praised, encouraged, propagandized for, or sided with the activities of an antistate organization." The legal standard for what constitutes endangering the security of the State was vague. Thus a number of persons have been arrested for what appeared to be the peaceful expression of views that the Government considered pro-North Korean or antistate. Among those arrested under the NSL were persons who praised North Korea, its former leader Kim Il Sung, or North Korea's "self-reliance" philosophy.

In February 2001, a foreign citizen was arrested and charged with violating the NSL. The basis for prosecution was publishing a book on North Korean leader Kim Jong-il, contact with allegedly pro-North Korean figures abroad, and travel to North Korea. In July 2001, he was convicted of violating the NSL and sentenced by the Seoul District Court to 3 years' imprisonment, with the sentence suspended.

In August 2001, 16 members of a group that went to Pyongyang as a delegation to an inter-Korean Independence Day Festival allegedly broke a pledge not to engage in political activities. They were arrested for violating the NSL. Seven of them, including Professor Kang Chung-koo of Dongkook University, were indicted. Professor Kang was released after being held for 2 months, and was awaiting trial at year's end. In February four of the other six were sentenced to 2 years and 6 months in prison, with suspension of imposition of sentence for 3 years (essentially a parole). The two others were sentenced to 2 years and 6 months in prison, and both were released on bail by June.

The U.N. Human Rights Committee termed the NSL "a major obstacle to the full realization of the rights enshrined in the International Covenant on Civil and Political Rights." President Kim Dae-jung, who himself was arrested and sentenced to death under the NSL, acknowledged in August 2000 that the law had "problematic areas" and announced his intent to pursue major revisions, especially in light of improvements in relations between North and South Korea since the June 2000 summit. During the year, 131 persons were arrested for violating the NSL, and 31 persons remained in custody at year's end.

The Government's rationale for retaining the NSL was that North Korea actively was trying to subvert the Government and society and as a result, some forms of expression had to be limited to block the greater danger to freedom and democracy posed by North Korean totalitarianism. The effect sometimes was to relieve the Government of the burden of proof that any particular speech or action in fact threatened the nation's security. Thus, although the Government strove to expand North-South exchanges, citizens were prosecuted in the past for unauthorized travel to North Korea (see Section 2.d).

The Criminal Code requires warrants to be issued by judges in cases of arrest, detention, seizure, or search, except if a person is apprehended while committing a criminal act or a judge is not available and the authorities believe that a suspect may destroy evidence or escape capture if not quickly arrested. In such emergency cases, judges must issue arrest warrants within 48 hours after apprehension or, if a court is not located in the same county, within 72 hours. Police may detain suspects who appear voluntarily for questioning for up to 6 hours but must notify the suspects' families. The police generally respected these requirements.

Authorities normally must release suspects after 30 days unless an indictment is issued. Consequently, detainees were a relatively small percentage of the total prison population.

The Constitution provides for the right to representation by an attorney, and a suspect may have a lawyer present during police interrogation. The Ministry of Justice announced in May 2000 that all prosecutors' offices had installed rooms where suspects could consult with their lawyers. In 2000 individual police stations began to employ lawyers as legal advisors to aid in examining relevant legal clauses in charging suspects. There were no reports of access to legal counsel being denied. There was a bail system, but human rights lawyers said that bail generally was not granted when detainees were charged with committing serious offenses, when they might attempt to flee or harm a previous victim, or when they had no fixed address.

In an August 2001 tax investigation, judges allowed prosecutors to arrest Bang Sang-hoon, president of the newspaper Chosun Ilbo; Kim Byung-kwan, former honorary chairman of the newspaper Dong-A Ilbo; and Cho Hee-joon, former president of the newspaper Kookmin Ilbo; stating that they might flee or destroy evidence if allowed to remain free (see Section 2.a). All three were released from detention by November 7, 2001. In January Cho was sentenced to 3 years' imprisonment and fined \$2,465,000 (3 billion won). In February Kim was sentenced to 3 years and 6 months' imprisonment and was fined \$3.7 million (4.5 billion won). Both sentences were appealed and a hearing on these appeals was still pending at year's end. On September 30, the first trial of Bang began; the outcome was pending at year's end. In December the Fair Trade Commission canceled \$15.3 million in fines levied against 15 newspapers and broadcasters for illegal business practices, citing the firms' weakened

financial condition and the public interest.

The Constitution and law neither provide for nor prohibit forced exile. The Government does not use forced exile, although some persons living abroad would face criminal charges if they returned to the country.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and in recent years, the judiciary has shown increasing independence. The Prosecutor's Office, which is under the jurisdiction of the MOJ, has been accused of influence peddling and cronyism, and the independence of the Prosecutor's Office (especially in cases involving government officials or political figures) was often called into question by the media and the political opposition. The President appoints the Chief Justice and most justices of the Constitutional Court. Although judges do not receive life appointments, they cannot be fired or transferred for political reasons. During the year, 10 members of the National Assembly lost their seats for election law violations.

Local courts were presided over by judges who render verdicts in all cases. There was no trial by jury. Defendants could appeal a verdict to a district appeals court and to the Supreme Court. Constitutional challenges could be taken to the Constitutional Court.

The Constitution provides defendants with a number of rights in criminal trials including the presumption of innocence, protection against self-incrimination, freedom from retroactive laws and double jeopardy, the right to a speedy trial, and the right of appeal. When a person is detained physically, the initial trial must be completed within 6 months of arrest. These rights generally were observed. Trials were open to the public, but a judge could restrict attendance if he believed spectators might seek to disrupt the proceedings.

Judges generally allowed considerable scope for examination of witnesses by both the prosecution and defense. Cases involving national security and criminal matters were tried by the same courts. Although convictions rarely were overturned, appeals often resulted in reduced sentences. Death sentences were appealed automatically.

Human rights groups believed that many dissidents tried by past military governments during the 1970s and 1980s were sentenced to long prison terms on false charges of spying for North Korea. These persons reportedly were held incommunicado for up to 60 days after their arrest, subjected to extreme forms of torture, forced to make "confessions," and convicted after trials that did not conform to international standards for a fair trial. In 2000 the Government enacted the Act on the Restoration of the Honor of and Compensation for Persons Engaged in the Democratic Movements (see Section 1.c.). However, these former prisoners were still required to report their activities regularly to the police after their release. In September 2000, 63 North Korean spies, who had been released from South Korean prisons, were allowed to return to North Korea according to their wishes. According to the Ministry of Justice, no long-term, unconverted prisoners remained incarcerated.

It was difficult to estimate the number of political prisoners because it was not clear whether particular persons were arrested for merely exercising the rights of free speech or association or were detained for committing acts of violence or espionage. One human rights group reported that, as of September, 93 persons, including 36 students, 37 laborers, and 20 other assorted dissidents, were imprisoned. However, this group's definition of political prisoners included all persons imprisoned for politically motivated acts, including violations of the NSL, the Assembly and Demonstration Act, and the Trade Union Act, and for violence or interference with official duties in the course of demonstrations or strikes.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Government generally respected the integrity of the home and family. In the past, the security services conducted varying degrees of surveillance, including wiretaps of political dissidents. The Antiwiretap Law and the law to reform the NIS were designed to curb government surveillance of civilians and appeared to have succeeded. The Antiwiretap Law lays out broad conditions under which the monitoring of telephone calls, mail, and other forms of communication are legal. It requires government officials to secure a judge's permission before placing wiretaps or, in the event of an emergency, soon after placing them, and it provides for jail terms for persons who violate this law. In March a revised law took effect which reduced the monitoring period to 2 months in criminal investigations and 4 months in national security cases. There was no consensus on whether those monitored subsequently should be informed after the wiretap is discontinued or on the legal procedure required by investigating authorities to gain access to telephone records. Some human rights groups argued that a considerable amount of illegal wiretapping, shadowing, and surveillance photography still occurred. They asserted that the lack of an independent body to investigate whether police have employed illegal wiretaps hindered the effectiveness of the Antiwiretap Law.

Several legislators alleged that they were under surveillance by the Government and that their homes, offices, and cellular telephones were tapped. They called for either tightening or abolishing a provision in the existing law that allows government officials to obtain retroactive judicial permission to monitor a conversation (especially a cellular telephone call) in the event of an emergency.

The Government continued to require some released prisoners to report regularly to the police under the Social Surveillance Law.

The NSL forbids citizens from listening to North Korean radio in their homes or reading books published in North Korea if the Government determines that they are doing so to help North Korea. However, this prohibition was rarely enforced, and the viewing of North Korean satellite telecasts in private homes was legal. The Government also allowed the personal perusal of North Korean books, music, television programs, and movies as a means to promote understanding and reconciliation with North Korea. North Korean books were sold openly in a few shops.

Student groups made credible claims that government informants were posted on university campuses.

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

While most political discourse was unrestricted, under the NSL the Government limited the expression of ideas that authorities consider Communist or pro-North Korean. Broad interpretations of the NSL allowed for restrictions on peaceful dissent. The President continued to urge that areas of the NSL be revised to protect human rights and make the law conducive to North-South détente, and the National Assembly frequently debated the issue.

Although the Government abandoned direct control over the news media, it continued to exercise indirect influence, and government officials vigorously lobbied reporters and editors. In 2001 the Government conducted a massive tax and trade law investigation of major media firms, prompting protests and suspicion that it was attempting to curb media criticism. The Government responded that the tax audit was legitimate and long overdue. Hundreds of auditors examined the records of 23 newspapers for 130 days. The audit resulted in the indictment and arrest of owners or major shareholders of three newspapers, including the Chosun Ilbo and the Dong-A Ilbo, which were considered the most critical of President Kim Dae-jung's policies and administration. However, even though the companies faced penalties of \$398 million, and their owners were on trial for tax evasion and embezzlement, the papers continued to criticize the Government. In September 2001, the International Press Institute and the World Association of Newspapers placed the Republic of Korea on a media watch list and concluded that the Government was harassing the independent media. These organizations expressed concern that the threat of tax investigations against media companies and pressure on advertisers could induce newspapers and broadcasters to mute their criticism of the Government. However, also in September 2001, the International Federation of Journalists stated that the tax probe had nothing to do with freedom of the press and that there was no evidence that freedom of the press was being suppressed.

The state-owned radio and television network maintained a considerable degree of editorial independence in its news coverage.

Journalists alleged that libel laws were used to harass publishers for articles that were unflattering but not necessarily untrue, and in the past some journalists were arrested and jailed for libel. There were no such detentions during the year.

Prosecutors continued to indict dissidents under the NSL for producing, selling, or distributing pro-North Korean or pro-Communist materials. Court precedents allowed citizens to possess these kinds of publications for purely academic use, profit, or curiosity, but not with the intent of subverting the Government. Prosecutors had wide discretion in determining motives for possessing or publishing such materials.

There was wide reporting on North Korea and North-South issues in the media.

The Government Censorship Board, which screened movies for sex and violence, followed more liberal guidelines in recent years and allowed the release of a broader range of films.

The Government blocked violent and sexually explicit Internet sites, and required site operators to rate their site as harmful or not harmful to youth. Some homosexual groups charged that the Government acted discriminatorily in blocking their Internet sites.

The Government did not restrict academic freedom. However, student groups credibly claimed that government informants were posted on university campuses.

### b. Freedom of Peaceful Assembly and Association

The Law on Assembly and Demonstrations prohibits assemblies that are considered likely to undermine public order. The law requires that the police be notified in advance of demonstrations of all types, including political rallies, and the police must notify organizers if they consider an event impermissible under this law.

On November 4, approximately 30,000 civil servants took leave in protest against the Government Employees Association Act (GEAA), in the first organized labor action taken by civil servants, and 770 persons were arrested in a related rally. On

November 5, approximately 100,000 workers participated in a general strike. The Government initiated disciplinary actions against some civil servants involved in these actions (see Section 6.b).

In February and April 2001, police and demonstrators clashed at a Daewoo automobile factory, and dozens of police and striking workers were injured (see Section 1.c.). President Kim expressed deep regret for excessive use of force, and two police chiefs were transferred. Police and demonstrators also clashed during a series of general strikes in June 2001 (see Section 1.c.).

The Constitution provides for freedom of association, and the Government generally respected this right in practice. Associations operated freely, except those deemed by the Government to be seeking to overthrow the Government.

#### c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice. There is no state religion, and the Government did not subsidize or favor a particular religion. Government policy continued to contribute to the generally free practice of religion.

For a more detailed discussion see the 2002 International Religious Freedom Report.

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

Most citizens could move freely throughout the country; however, police had discretion to restrict the movements of some former prisoners. Foreign travel generally was unrestricted, but the Government required approval for travel to North Korea. To obtain approval, potential visitors were required to demonstrate that their trip did not have a political purpose or aim to praise North Korea or criticize the South Korean Government. During the year, the Government continued to promote the expansion of North-South government, economic, cultural, and tourism-related contacts. However, travelers to North Korea who did not receive government permission were likely to be arrested upon their return. There was reportedly only one such case during the year.

In the past, the Government forbade some citizens convicted of politically related crimes from returning to the country, and some citizens still face sanctions should they choose to return.

The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. Government guidelines provided for offering temporary refuge in the case of a mass influx of asylum seekers. However, procedures for receiving and adjudicating asylum applications did not always appear to be in keeping with either the letter or the spirit of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol.

In 2001 the UNHCR reported the forced return of three persons to countries where they claimed to fear prosecution; each of these persons had an active asylum application being reviewed by the Government and were deported without the knowledge of, or contact with, the UNHCR.

At the beginning of the year, there were seven persons of concern to the UNHCR in the country: one convention refugee, three persons with UNHCR mandate refugee status, and three persons recommended for temporary protection against return to their home country on humanitarian grounds. There were also 68 refugee applicants awaiting a decision by the Minister of Justice. During the year, 30 additional persons filed applications for refugee status. In December the Government granted convention refugee status to one person. The UNHCR conferred mandate refugee status on two persons during the year, and recommended temporary protection against return for three additional persons. There were approximately 10 negative decisions during the year, and 88 cases remained pending at year's end.

The Government handling of asylum applications, although slow, became more flexible toward cases under review by the UNHCR. The Government suspended temporarily exit orders for these individuals. It also showed flexibility toward persons whose applications were rejected in the government review process, but whom the UNHCR found met the definition of refugee. In June 2000, the Seoul District Court held that the Immigration Office had exceeded its authority by refusing to accept an asylum seeker's application based on an initial assessment of the claim.

The Government extended the right to work to refugees, but did not provide any social assistance to either refugees or asylum seekers. Asylum seekers were given 90-day extensions of their temporary stay permits while their applications were under review and they legally were not able to work during this period. In practice most asylum seekers entered the labor market, as did other undocumented foreign workers.

#### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The Constitution provides for the direct

election of the President. In the past, the Constitution was interpreted as providing for a mixed system of direct and proportional election of legislators to the unicameral National Assembly. However, in 2001 the system of proportional election was declared unconstitutional by the Constitutional Court; future legislators are to be elected directly. The President serves a single 5-year term and may not be reelected. The National Assembly members serve terms of 4 years. All citizens 20 years of age or older have the right to vote, and elections are held by secret ballot.

The 273-seat National Assembly included 17 female legislators. One of them chaired a special committee on women's affairs. Two of the 19 Cabinet ministers are women: the Minister of Environment and the Minister of Gender Equality. Due to cultural traditions and discrimination, women occupied few important positions in government, although this was slowly changing.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Many domestic NGOs were active in promoting human rights, and they generally operated without government restriction. Chief among these groups were the Lawyers for a Democratic Society, Sarangbang, the Human Rights Committee of the National Council of Churches in Korea, the Korean Bar Association, People's Solidarity for Participatory Democracy, and Mingahyup, an association of the families of political prisoners. These groups published reports on human rights and made their views known both inside and outside the country. Government officials generally were willing to meet with international human rights groups.

In 2001 the President established the National Human Rights Commission according to legislation passed by the National Assembly. In April the Commission began to operate. It monitored and investigated human rights violations and complaints of discrimination, including during interrogations and in correctional facilities. Members of the National Human Rights Commission were not to be present at interrogations, but they had the right to visit those who had been arrested and were in custody. They also were authorized to visit prisons and correctional institutions.

There was also a Presidential Truth Commission on Suspicious Deaths (see Section 1.a.) and a Commission for the Restoration of Honor and Compensation to Activists of the Democratization Movement (see Section 1.c.).

#### Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution and law forbid discrimination on the basis of race, sex, religion, disability, or social status, and the Government generally respected these provisions. However, traditional attitudes limited opportunities for women and the disabled. Ethnic minorities were very small in number and faced both legal and societal discrimination.

##### Women

Societal violence against women remained a problem. The Ministry of Gender Equality, established in 2001, reported that more women were coming forward to report abuse. The Prevention of Domestic Violence and Victim Protection Act defines domestic violence as a serious crime. Authorities can order offenders to stay away from victims for up to 6 months and to be put on probation or to see court-designated counselors. The law also requires police to respond immediately to reports of domestic violence. Women's groups praised the law as a significant step in combating domestic violence.

Rape remained a serious problem. During the year, 7,200 cases of rape were reported, and 3,450 cases were prosecuted. Many rapes went unreported because of the stigma associated with being raped. The activities of a number of women's groups increased awareness of the importance of reporting and prosecuting rapes, as well as of offenses such as sexual harassment in the workplace. According to women's rights groups, cases involving sexual harassment or rape frequently went unprosecuted, and perpetrators of sex crimes, if convicted, often received light sentences. In September 2001, the Seoul District Prosecutor's Office established the Female Prosecutor's Office dealing with sex and family violence cases and also separately established a counseling service for women.

The Sexual Equality Employment Act, which went into effect in 1999, was enacted to combat sexual harassment in the workplace. During the year, 738 cases were filed under the Gender Discrimination Prevention and Relief Act; 48.7 percent of these cases dealt with sexual harassment and 36.9 percent concerned employment discrimination (pregnancy, promotion, or salary). Under the law, companies can be fined up to \$2,500 (3 million won) for failing to take steps to prevent sexual harassment in the workplace or failing to punish an offender. The law also requires companies to establish in-house sexual harassment complaint centers and forbids firms from punishing employees for taking their complaints to outside organizations. In addition, the Ministry of Education announced in 2000 that the law's guidelines would apply at the nation's schools and that teachers who made gender-discriminatory remarks would be disciplined. As examples of gender-discriminatory remarks, the Ministry cited statements that emphasized women's traditional roles in families, stressed men's leadership in society, and encouraged female students to work for good marriages instead of embarking on a career after graduation.

The Family Law permits women to head a household, recognizes a wife's right to a portion of the couple's property, and allows a woman to maintain greater contact with her children after a divorce. Although the law helped abused women who chose to divorce, including victims of domestic violence, the stigma of divorce remained strong, and there was little government or private assistance for divorced women. These factors, plus the fact that divorced women had limited employment opportunities and had difficulty remarrying, led some women to stay in abusive situations. The Government has established some shelters for

battered women and has increased the number of child care facilities, giving women in abusive situations more options, but women's rights groups said that they fell far short of effectively dealing with the problem.

The country's conservative traditions left women subordinate to men socially and economically. Despite the passage of equal employment opportunity legislation, few women worked as company executives, and sexual discrimination in the workplace remained a problem. The Equal Employment Act was revised to impose tougher penalties on companies found to discriminate against women in hiring and promotions. Under the law, the Presidential Commission on Women's Affairs (the precursor of the existing Ministry of Gender Equality) was granted the authority to investigate sexual discrimination cases in the workplace. A company found guilty of practicing sexual discrimination could be fined up to \$3,873 (5 million won) and have its name published in the newspaper. The law also provides for a public fund to support victims in seeking legal redress. Nevertheless some government agencies' preferential hiring of applicants with military service (nearly always men) led to continued legal barriers against women. In 1999 the Constitutional Court ruled that government agencies' preferential hiring practices for those who have performed military service discriminate against women and disabled persons and are unconstitutional.

Women had full access to education, and social mores and attitudes were changing gradually. For example, the major political parties made more efforts to recruit women; an increasing number of women occupied key positions within political parties; and the military and service academies continued to expand opportunities for women. With the establishment of the Ministry of Gender Equality, the Government strove for increased employment opportunities for women and also for an enhanced role and stronger rights for women in society, while closely monitoring violations and instances of discrimination.

The Government provided an allowance of \$442 (535,000 won) per month to 137 former "comfort women," women who, during World War II, were forced to provide sex to soldiers of the Japanese Imperial Army.

The country was a major origin and transit point for trafficking in Asian women and children destined for the sex trade and domestic servitude (see Section 6.f.).

#### Children

The Government demonstrated its commitment to children's rights and welfare through its well-funded system of public education. The Government provided high-quality elementary education to all children free of charge. Education was compulsory through the age of 15, and most children obtained a good secondary education. High-quality health care was widely available to children.

As public awareness of the problem of child abuse continued to grow, the number of reported cases increased. According to one NGO's figures, approximately 600 cases were reported during the year. The Seoul metropolitan government ran a children's counseling center that investigated reports of abuse, counseled families, and cared for runaway children. The Prevention of Domestic Violence and Victim Prevention Act of 1998, which defines domestic violence as a serious crime, allows a child to bring charges against a parent in cases of abuse. In July 2001 the Government enacted a revised Child Protection Law that mandates the establishment of a child abuse hot line and the dispatch of trained personnel to take preliminary measures for the protection of an abused child. Under the revised law, the Government established temporary protection facilities, counseling centers, communal homes, and other appropriate protection services and facilities. Revisions also included increased penalties for convicted child abusers, who faced up to 5 years in prison (compared to the previous 2 years) for child abuse.

Since 1999 the Youth Protection Law has provided for prison terms of up to 10 years and a fine of \$7,747 (10 million won) per minor hired for owners of entertainment establishments who hired minors under the age of 19. The Commission on Youth Protection also expanded the definition of "entertainment establishment" to include facilities, such as restaurants and cafes, where children were hired illegally as prostitutes. In 2000 the Government enacted the Juvenile Sexual Protection Act. It established a maximum sentence of 20 years for the sale of the sexual services of persons less than 19 years of age. It also established prison terms for persons convicted of the purchase of sexual services of youth under the age of 19 (see Section 6.f.). Based on this law, the Commission enforced a decree to publicize the names of those who had committed sex offenses against minors. As of year's end, the names of 1,114 sexual offenders had been made public.

The traditional preference for male children continued, although it was less evident among persons in their twenties and thirties. Although the law bans fetal testing except when a woman's life is in danger, when a hereditary disease would be transmitted, or in cases of rape or incest, such testing and the subsequent termination of pregnancies with female fetuses frequently occurred. The Government expressed concern over the widening disparity between male and female birth rates.

#### Persons with Disabilities

Although measures aimed at creating opportunities for persons with disabilities have been taken, public facilities remained inadequate. However, discrimination against persons with disabilities in employment, education, or the provision of other state services was illegal. The law states that "no one shall be discriminated against in all areas of political, economic, social, and cultural life on the grounds of disability."



Firms with over 300 employees are required by law either to hire persons with disabilities or pay a fine. Surveys indicated that most companies either paid the fine or evaded the law; one 1999 survey indicated that 9 out of 10 firms with more than 300 employees failed to meet the mandated 2 percent job quota for persons with disabilities. The hiring of persons with disabilities remained significantly below target levels. Persons with disabilities made up less than 1 percent of the work force. New public buildings were required to include facilities for persons with disabilities such as ramp access to entrances, a wheelchair lift, and special parking spaces. The Health and Welfare Ministry announced that existing government buildings must be retrofitted with these facilities, and, as of April, 98 percent of major public buildings had facilities for persons with disabilities. According to the Health and Welfare Ministry, of 388 subway stations nationwide, wheelchair lifts were installed at 247 stations and elevators were installed at 110 stations. After two disabled people were killed in accidents involving wheelchair lifts, the Government drew up a plan to install elevators at all subway stations by 2004. In 1999 the Constitutional Court ruled that government agencies' preferential hiring practices for those who had performed military service discriminated against persons with disabilities and were unconstitutional.

#### National/Racial/Ethnic Minorities

The country is racially homogeneous, with no sizable populations of ethnic minorities. Except in cases of naturalization, citizenship is based on parentage, not place of birth, and persons must show their family genealogy as proof of citizenship. Thus ethnic Chinese born and resident in Korea obtained citizenship only with great difficulty. Without citizenship they could not become public servants and had difficulty being hired by some major corporations. Due to legal as well as societal discrimination, many ethnic Chinese have emigrated to other countries since the 1970s. There were approximately 20,000 ethnic Chinese residents, who represented 0.05 percent of the population. In June 1998, the Government passed legislation to allow a female citizen to transmit citizenship to her child regardless of the citizenship of the child's father. Amerasians faced no legal discrimination, but informal discrimination was prevalent.

#### Section 6 Worker Rights

##### a. The Right of Association

The Constitution provides workers, except public sector employees, with the right to associate freely. Since 1999 government white-collar workers have been allowed to form "workplace councils." Blue-collar workers in government agencies were allowed to organize unions. Until 1997 the Trade Union Law specified that only one union was permitted at each workplace. Labor law changes in 1997 authorized the formation of competing unions starting in 2002, but implementation of these changes was postponed until 2006 by mutual agreement among members of the Tripartite Commission, which included representatives of the Government, labor, and management (see Section 6.b.). All unions were required to notify the authorities when formed or dissolved. As of June, 1,551,532 workers—approximately 11.6 percent of employed workers—were union members, and there were 4,381 trade unions according to the Ministry of Labor.

In the past, the Government only formally recognized two labor federations, the Federation of Korean Trade Unions (FKTU) and the Independent Korean Federation of Clerical and Financial Workers. In recent years, the Ministry of Labor officially recognized some independent white-collar federations representing hospital workers, journalists, and office workers at construction firms and at government research institutes. The courts have ruled that affiliation with the FKTU is not required for an entity to be registered as a legal labor federation. In 1999 the legalization of the teachers' unions paved the way for government recognition of the dissident Korean Confederation of Trade Unions (KCTU). In practice labor federations not formally recognized by the Ministry of Labor have operated without government interference.

On March 23, at the inaugural congress of the Korean Government Employees Union, approximately 1,000 police arrested 192 of the 268 delegates in attendance on the grounds that white-collar government employees may not legally organize unions. Most of those arrested were questioned and released, but 4 of the 192 remained imprisoned at year's end.

The two teachers' unions, the KCTU-affiliated Korean Teachers' Union (Chonkyojo) and the FKTU-affiliated Korean Union of Teachers and Educational Workers, had the right to bargain collectively with the Ministry of Education on wages and working conditions but not school curricula, and it was illegal for the unions to take collective action. In October 2001, teachers demonstrated twice.

Election laws prohibit donations by unions (and other social organizations) to political parties. Some trade unionists have temporarily resigned from their union posts to run for office. In December Kwon Young-kil ran for President as the candidate of the KCTU-affiliated Democratic Labor Party. In the April 2000 National Assembly election, several candidates from the Democratic Labor Party made unsuccessful bids for Assembly seats.

The FKTU and KCTU were affiliated with the International Confederation of Free Trade Unions (ICFTU). Most of the FKTU's 20 constituent federations maintained affiliations with international trade secretariats, as did the KCTU Metalworkers Council.

##### b. The Right to Organize and Bargain Collectively

The Constitution and the Trade Union Law provide for the right of workers to collective bargaining and collective action. This law also empowers workers to file complaints of unfair labor practices against employers who interfere with union organizing or who

discriminate against union members. Employers found guilty of unfair practices could be required to reinstate workers fired for union activities. According to the FKTU, this occurred frequently. The Tripartite Commission established a subcommittee on the protection of civil servants' basic rights and has discussed the establishment of a civil servants' union.

Extensive collective bargaining was practiced, even with unions whose federations were not recognized legally by the Government. The labor laws do not extend the right to organize and bargain collectively to defense industry workers or white-collar government employees, although since 1999 these workers have been allowed to form "workplace councils," which may make recommendations, but may not engage in collective bargaining.

The Labor Dispute Adjustment Act requires unions to notify the Labor Ministry of their intention to strike. It mandates a 10-day "cooling-off period" before a work stoppage legally may begin and 15 days notice in public interest sectors. Labor laws prohibit retribution against workers who have conducted a legal strike and allow workers to file complaints of unfair labor practices against employers.

Strikes are prohibited in government agencies, state-run enterprises, and defense industries. By law, unions in enterprises determined to be of "essential public interest," including public transportation, utilities, public health, banking, and telecommunications, can be ordered to submit to government-ordered arbitration. However, in practice, the Government rarely imposes arbitration.

On November 4, in the first organized labor action taken by civil servants, approximately 30,000 government workers took leave in protest against the Government Employees Association Act (GEAA), which denied the rights to collective action and collective bargaining, and the right to affiliate with an umbrella union. As many as 4,000 police officers dispersed a rally of approximately 900 civil servants and 100 students at Han Yang University. Following violent clashes, 770 people were detained. On November 5, approximately 100,000 workers participated in a general strike in opposition to the GEAA, to certain provisions in the proposed bill on the 40-hour workweek, and to a bill creating special economic zones that would be exempt from some provisions in the Labor Standards Act. The government initiated disciplinary actions against 588 civil servants involved in these actions.

In June 2001, the Government declared strikes by workers of two main airlines to be illegal because workers did not submit to arbitration. The Seoul District Prosecutor's Office indicted Yang Kyung-kyu, the chairman of the Korean Federation of Transportation, Public, and Social Services Workers' Unions on charges of leading the strike at Korean Air Lines.

There were 322 strikes and 16 lockouts during the year, involving a total of 93,859 workers and a loss of 1,580,404 working days.

In February a number of strike organizers were arrested during a power workers' strike, and on September 11, police intervened to break up a strike at two hospitals, Kang Nam Hospital and Kyung Hee Medical Center, arresting several of the leaders. According to the KCTU, 130 persons were arrested for allegedly instigating violent strikes or illegally disrupting business during the year, of whom four were still imprisoned at year's end. In February and April 2001, police and demonstrators clashed at a Daewoo automobile factory (see Section 1.c and 2.b.).

There was no independent system of labor courts. The central and local labor commissions formed a semiautonomous agency of the Ministry of Labor that adjudicates disputes in accordance with the Labor Dispute Adjustment Law. Each commission was composed of equal numbers of representatives of labor and management, plus neutral experts who represented the public interest. Local commissions can decide on remedial measures in cases involving unfair labor practices and to mediate and, in some situations, arbitrate labor disputes. Arbitration can be made compulsory in sectors of the economy (for example, utilities and transportation) deemed essential to public welfare.

In 1998 the Government established the Tripartite Commission, with representatives from labor, management, and the Government to deal with labor issues related to the economic downturn. The Tripartite Commission concluded an agreement that covered, among other things, unemployment policy, corporate restructuring, labor conditions, labor market flexibility, and the promotion of basic labor rights. The work of the Commission made it legal for companies to lay off workers due to economic hardship and authorized temporary manpower agencies.

Under the 1997 labor laws, persons who assisted trade unions or employers in a dispute were required to register with the Ministry of Labor. Those who failed to do so faced a large fine or a maximum sentence of 3 years' imprisonment. However, no one had been charged for failing to register.

Enterprises in the two export processing zones (EPZs) had been designated by the Government as public interest enterprises. Workers in these enterprises gradually have been given the rights enjoyed by workers in other sectors of the economy. Labor organizations were permitted in EPZs. At year's end, a bill creating "special economic zones," which are to be exempt from certain provisions of the labor code, was pending in the National Assembly.

#### c. Prohibition of Forced or Bonded Labor

The law prohibits forced or bonded labor, including forced or bonded labor by children, and it was not known to occur. The Constitution provides that no person shall be punished, placed under preventive restrictions, or subjected to involuntary labor, except as provided by law and through lawful procedures. Some illegal foreign workers alleged beatings, forced detention, withheld wages, and seizure of passports by their employers (see Section 6.e.).

#### d. Status of Child Labor Practices and Minimum Age for Employment

The Labor Standards Law prohibits the employment of persons under age 15 without a special employment certificate from the Labor Ministry. Because education was compulsory through middle school (approximately age 14), few special employment certificates were issued for full-time employment. To obtain employment, children under age 18 had to have written approval from both of their parents or guardians. Employers could require minors to work only a limited number of overtime hours and were prohibited from employing them at night without special permission from the Labor Ministry. Child labor laws and regulations are clear and were usually enforced when violations were found, but critics claimed that the Government employed too few inspectors to carry out regular inspections.

#### e. Acceptable Conditions of Work

The minimum wage was reviewed annually. As of September, the minimum wage was \$1.90 (2,275 won) per hour, \$15.17 (18,200 won) per day, or \$428.46 (514,150) per month. Companies with fewer than 10 employees were exempt from this law. The FKTU and other labor organizations asserted that the existing minimum wage did not meet the basic requirements of urban workers. However, the money an average blue-collar worker took home in overtime and bonuses significantly raised the total compensation package. According to the Ministry of Health and Welfare, 1,390,000 people, slightly less than 3 percent of the population, lived below the poverty level.

The Labor Standards Law provides for a maximum regular workweek of 44 hours and provides for a higher wage for overtime. The law also provides for a 24-hour rest period each week. Labor laws also provide for a flexible hours system, under which employers can require laborers to work up to 48 hours during certain weeks without paying overtime, so long as average weekly hours for any given 2-week period do not exceed 44. If a union agrees to a further loosening of the rules, management may ask employees to work up to 56 hours in a given week. Workers may not work more than 12 hours in a working day. Labor groups claimed that the Government did not enforce adequately the maximum workweek provisions at small companies.

Foreign workers, most of whom came from China, the Philippines, Bangladesh, Nepal, Vietnam, Indonesia, Sri Lanka, and Pakistan, often faced difficult working conditions. The Government created a program that allowed certain foreign workers to enter the country legally to work at established wages with legal safeguards. In 2000 the Government announced that industrial trainees would be allowed to remain in the country for as long as 5 years, as opposed to 3 years previously. The Government reported that approximately 23,300 foreign workers and 70,500 industrial trainees were in the country legally and that there were an additional 220,000 illegal residents. Illegal workers who sought relief for loss of pay or unsatisfactory living and working conditions faced deportation. However, the Government established counseling centers that heard complaints from illegal foreign workers about issues such as overdue wages and industrial accidents, and in January the MOJ announced that foreigners residing illegally would be allowed to stay to finish medical treatment, seek compensation for industrial accidents, and collect back wages. The Labor Standards Law also prohibits the abuse of workers.

In 2000 the MOJ announced that it would establish a human rights committee for foreign workers to address mistreatment that some foreign workers faced from their employers, such as beatings, forced detention, withheld wages, and seizure of passports. The Government also announced that employers reported to abuse foreign workers would be subject to criminal charges and be disadvantaged in the Government's allocation of jobs for overseas workers. However, as of year's end, the human rights committee for foreign workers had not been established, and there were no reports that abusive employers had been charged. Foreign workers have submitted complaints to the National Human Rights Commission and have on occasion sought assistance from regional labor offices in collecting back wages and addressing other grievances.

Foreigners working as language teachers have complained that the language institutes frequently violated employment contracts, for which the legal system provided insufficient redress.

The MOJ instituted a 1-year amnesty under which all illegal workers who reported their presence by May 25 would be allowed to remain in Korea until March 25, 2003.

The Government set health and safety standards, but the accident rate was unusually high by international standards. However, this rate continued to decline gradually due to improved occupational safety programs and union pressure for better working conditions. Although the number of inspectors has increased, the Labor Ministry still lacked sufficient inspectors to enforce the laws fully. The law does not provide job security for workers who remove themselves from dangerous work environments.

#### f. Trafficking in Persons

There is no single law that specifically prohibits trafficking in persons; however, various laws can be used to prosecute traffickers, including laws against kidnapping, inducement to prostitution, and laws protecting juveniles. These laws stipulate that proper security measures as well as financial assistance must be provided to trafficked victims when they report a trafficking

crime. The Labor Standards Law prohibits the employment of any person under 18 years of age in work that "is detrimental to morality or health." The Juvenile Sexual Protection Act, which took effect in July 2000, imposes lengthy prison terms for persons convicted of sexual crimes against minors (see Section 5).

Trafficking was a problem. The Republic of Korea was a country of origin, transit, and destination for trafficking in persons. Young female Koreans were trafficked primarily for sexual exploitation, mainly to the United States, but also to other Western countries and Japan. Female aliens from many countries, primarily Chinese women, were trafficked through Korea to the United States and many other parts of the world. In addition to trafficking by air, much transit traffic occurred in the country's territorial waterways by ship. Women from the Philippines and Russia were trafficked to the country for sexual exploitation. They were recruited personally or answered advertisements, and were flown to Korea, often with entertainer visas. In some cases, victims' passports were held by their employers.

The country was considered a major transit point for alien smugglers, including traffickers of primarily Asian women and children for the sex trade and domestic servitude. Relatively small numbers of Korean economic migrants, seeking opportunities abroad, were believed to have become victims of traffickers as well. There were reports of the falsification of government documents by travel agencies; many cases involved the trafficking or smuggling of citizens of China to Western countries.

In August 2001, the Supreme Prosecutor's Office established joint investigation centers in collaboration with the police force and local governments to address trafficking and inveigling of women for forcible sexual exploitation, for the forcible transfer to foreign territory for employment in "service establishments of indecent nature," for granting illegal entry into the country for purposes of sexual exploitation, for the sale of women between prostitution establishments, and for the illegal departure from the country through fake employment or marriage overseas.

During the year, the Government tightened restrictions on the "entertainer" visas by which many trafficked persons formerly entered Korea. Applicants for this type of visa must now be interviewed in their home country by a Korean consular official. The Government also instituted restrictions on the types of establishments in which foreign entertainers may be employed. The National Police Administration initiated a program of informing foreign employees of bars and similar establishments of their rights, and, in cooperation with the Ministry of Gender Equality, established a multilingual hotline for victims of trafficking.

During the year, 445 people were investigated for suspected trafficking, of whom 64 were arrested. In addition, 118 suspected visa brokers and alien smugglers were investigated for violation of the Stowaway Control Law, of whom 40 were arrested.

Various laws stipulate that appropriate facilities, such as temporary shelters, as well as counseling assistance, medical treatment, and occupational training programs, be provided to protect and assist trafficking victims. During the year, 91,978 calls were received by hot lines dealing in women's issues. There were 23 guidance and protection facilities that were used by 1,457 persons; 92 sexual assault counseling centers, with 39,627 cases reported; 8 protection facilities for victims of sexual violence and trafficking that were used by 129 persons; 142 counseling centers for family violence, with 114,612 cases reported; and 30 protection facilities for victims of family violence that were used by 3,023 persons.

In November 2001, the Ministry of Gender Equality published booklets to publicize counseling centers and protection facilities for victims of family violence, sexual assault, and commercial sex. The Ministry of Gender Equality conducted a comprehensive survey of the sex industry; as of year's end, the results of the survey were not available.

The Government worked with various NGOs to develop awareness of the issue and help prevent trafficking. Some foreign women working in the entertainment industry were advised of their rights in an orientation program organized by the National Police Agency. The police cooperated with officials of various embassies in investigating and attempting to resolve various trafficking-related issues and disputes.